

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2752 – SB 2665

March 22, 2010

SUMMARY OF AMENDMENTS (014332, 015399): Any conveyance of real or personal property used in the commission of a sexual offense committed against a minor or an offense regarding sexual exploitation of children, committed on or after July 1, 2006, but prior to July 1, 2010, is subject to administrative forfeiture. Any such offense committed on or after July 1, 2010, will be subject to judicial rather than administrative forfeiture. Effective July 1, 2010, after reimbursement for all litigation expenses incurred by the district attorney general that were incident to the litigation and approved by the court as authorized by Tenn. Code Ann. § 39-11-713(a), requires the clerk of the court where the forfeiture occurs to transmit 15 percent of the remaining proceeds to the law enforcement agency conducting the investigation that resulted in the seizure. Requires the court clerk to transmit the remainder of the funds to the Department of Finance & Administration (F&A) for deposit in the Child Abuse Fund to be allocated as follows: 45 percent to the state chapter of Children's Advocacy Centers for the purpose of child abuse prevention activities; 27.5 percent to the Court Appointed Special Advocates (CASA) for the purpose of expanding services of existing programs and developing new programs; and 27.5 percent to Prevent Child Abuse Tennessee for the purpose of statewide child abuse prevention programs and activities. By January 15, 2014, requires the Tennessee Commission on Children and Youth (TCCY) to review the provisions of this act and report the findings to the House of Representatives and the Senate Judiciary Committees, and the House of Representatives Children and Family Affairs Committee. The review shall examine the number of cases in which seizures and forfeitures were effectuated, an inventory of the type of property seized, the amount of revenue derived from such forfeitures, whether the revenue was distributed as required by this act, the manner in which the revenue was used by the various agencies, and whether the Commission recommends adjusting the allocation percentages to maximize child abuse prevention and prevention programs.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – Not Significant

Increase Local Expenditures – Not Significant

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue – Exceeds \$100,000

Increase State Expenditures – Not Significant

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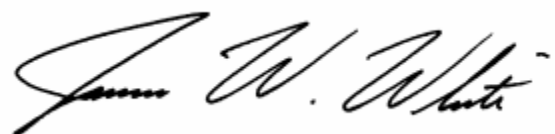
Increase Local Revenue – Exceeds \$100,000
Increase Local Expenditures – Not Significant

Assumptions applied to amendments:

- Currently any conveyance of real or personal property used in the commission of a sexual offense, if the offense is committed against a minor, or an offense regarding sexual exploitation of children, is subject to administrative forfeiture. Under judicial foreclosure all right, title, and interest in the property is subject to forfeiture and vests immediately upon the commission of the act giving rise to the forfeiture.
- Public Chapter 960 of the Public Acts of 2006 authorized state and local governments to seize conveyance of real property used in the commission of a sex offense against a child less than 18 years of age and the seizure of a vehicle, aircraft or vessel used in the commission of a sex offense under Title 39, Chapter 13, Part 5.
- According to the Secretary of State's office, the administrative law judges have not heard any cases concerning the forfeiture of property from a sex crime because such forfeitures were not assigned to any state department to prosecute such proceedings. No funds have been deposited into the Child Abuse Fund created by Public Chapter 960.
- The amount of revenue collected by state and local government due to judicial forfeiture cases is unknown. However, it is reasonable to assume that collections will exceed \$100,000 for both state and local government.
- After July 1, 2010, these cases will be heard in the circuit, chancery, or general sessions court of the county in which such property is located rather than by an administrative law judge. Any increase in state and local expenditures for these additional cases is estimated to be not significant and can be accommodated within existing judicial resources.
- According to the TCCY, any additional cost to provide the required report to the appropriate committees will not have a significant fiscal impact.
- Any increase to local governments to transmit the funds to the appropriate agencies will result in a not significant increase in local expenditures.
- There will not be a significant fiscal impact to the Office of Criminal Justice Programs to reallocate the funds as required by this amendment.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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